

New President, New Policies

**What employers need to
know to protect their
business**



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PRESENTED BY:

CHRISTINA M REGER, ESQ.

Introduction, Thanks, and Disclaimers

- NOT giving legal advice
- Attending this presentation does NOT create attorney-client privilege
- All questions submitted answered generally - not specifically



Presented by:

Christina M. Reger, Esq.

Founding Partner



- 2021: A New Perspective
- Unemployment Updates
- The latest with OSHA
- The DOL and the overtime rules
- Redefining the Workplace 2021
- Philly Wage Tax
- What Should Employers Do?



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A modern office hallway with a polished floor, glass walls, and turnstiles. The hallway is brightly lit, and the floor reflects the lights. The walls are made of large glass panels with vertical black frames. In the foreground, there are four turnstiles with green lights. The ceiling has recessed lighting. The overall atmosphere is clean and professional.

2021 A New Perspective

What does the new President mean for employers?



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- ❖ Renewed interest in unions
- ❖ Social Media monitoring?
- ❖ Renewed focus on independent contractors – GIG ECONOMY
- ❖ Misclassification wage and hour issues



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Agency Changes

NLRB
DOL

UNEMPLOYMENT



The Latest with Unemployment

- A new online system launched.
 - New step by step guides
 - New resources
- Work requirements resume for all on unemployment
- Hearing remain virtual (for the most part)
- Extended benefits (EB) ended May 15, 2021
- Those still filing for EB transitioned to the PEUC (Pandemic Emergency Unemployment Compensation Program)





pennsylvania

DEPARTMENT OF LABOR & INDUSTRY
OFFICE OF UNEMPLOYMENT COMPENSATION BENEFITS POLICY

EMPLOYER QUESTIONNAIRE REFUSAL SUITABLE WORK

Submit the completed form, along with any additional documentation, within seven (7) days of the refusal of a job offer or referral. (All fields marked in red must be completed prior to submission.)

Claimant's Name:

Social Security No.: XXX-XX-

Employer's Name:

UC Acct No.:

Contact Person:

Title:

Employer's Address:

Email:

Telephone No.:

Temporary Staffing Agency? Yes No

Fax Number:

In order for the department to determine the claimant's eligibility for unemployment compensation and to protect your employer account, please answer the following questions:

1. Did the claimant refuse to accept a referral to employment? Yes No

If Yes:

UNEMPLOYMENT

https://www.uc.pa.gov/documents/uc_forms/uc-1921%20interactive.pdf

What is the latest
from OSHA?



OSHA[®]

**Occupational Safety
and Health Administration**

THE LATEST OSHA GUIDANCE



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Under the OSHA Act: employers are responsible for providing a safe and healthy workplace free from recognized hazards likely to cause death or serious physical harm.

1. OSHA issued guidance on Jan. 29, 2021
2. Then the CDC issued recommendations for fully vaccinated
3. OSHA changed its guidance on June 10, 2021

MORE ON OSHA GUIDANCE



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<https://www.osha.gov/coronavirus/safework>

The Summary of the Changes

- ❑ Focus protections on unvaccinated and otherwise at-risk workers
- ❑ Encourage COVID-19 vaccination

Do so by:

- ✓ Grant PTO to get vaccinated
- ✓ Stay home if sick or exposed!
- ✓ Physical distancing for unvaccinated
- ✓ Masking for unvaccinated – provide PPE
- ✓ Educate and train on COVID policies
- ✓ Visitors wear masks (if unvaccinated)
- ✓ Maintain ventilation / cleaning standards
- ✓ Record Infections and deaths
- ✓ Protect against retaliation

NEW OSHA ANNOUNCEMENT

issued May 18, 2021



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<https://www.osha.gov/coronavirus/safework>

If employers require vaccine than adverse reactions are recordable. (may be a disincentive)

Updates to the FAQs

<https://www.osha.gov/coronavirus/faqs#vaccine>

But will not enforce employer's requirements to record up to May 2022.

But if employer merely encourages vaccines, they are not required to report.

NEW OSHA ENFORCEMENT

issued Mar. 12, 2021



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<https://www.osha.gov/coronavirus/safework>

- Prioritize inspections
- Perform on-site inspections
- Address violations of OSHA Standards
- Investigate referrals and complaints received

<https://www.osha.gov/memos/2021-03-12/updated-interim-enforcement-response-plan-coronavirus-disease-2019-covid-19>

Employee Misclassification

The salaried vs. hourly
debate

Employee vs. Independent
Contractor





Employee Misclassification

CURRENT RULES

Fair Labor Standards Act - regulated by DOL

Employees eligible for OT based on classification

- Exempt (salaried)
- Non-exempt (hourly)

Non-exempt entitled to OT at time and a half for > 40 hrs per work week

Salaried employees only exempt from OT IF they earn at least \$455/wk (\$23,660/yr) AND meet the white collar exceptions

Two Prong Test To Meet Exemption:

- Salary Test (\$684/wk or \$35,568)
- Duties Test

Increases in PA effective 10/3

- \$780/wk (or \$40,560 per year), eff. 10/3/21
- \$875/wk (or \$45,500 per year), beginning on 10/3/22

Potential increase in federal??

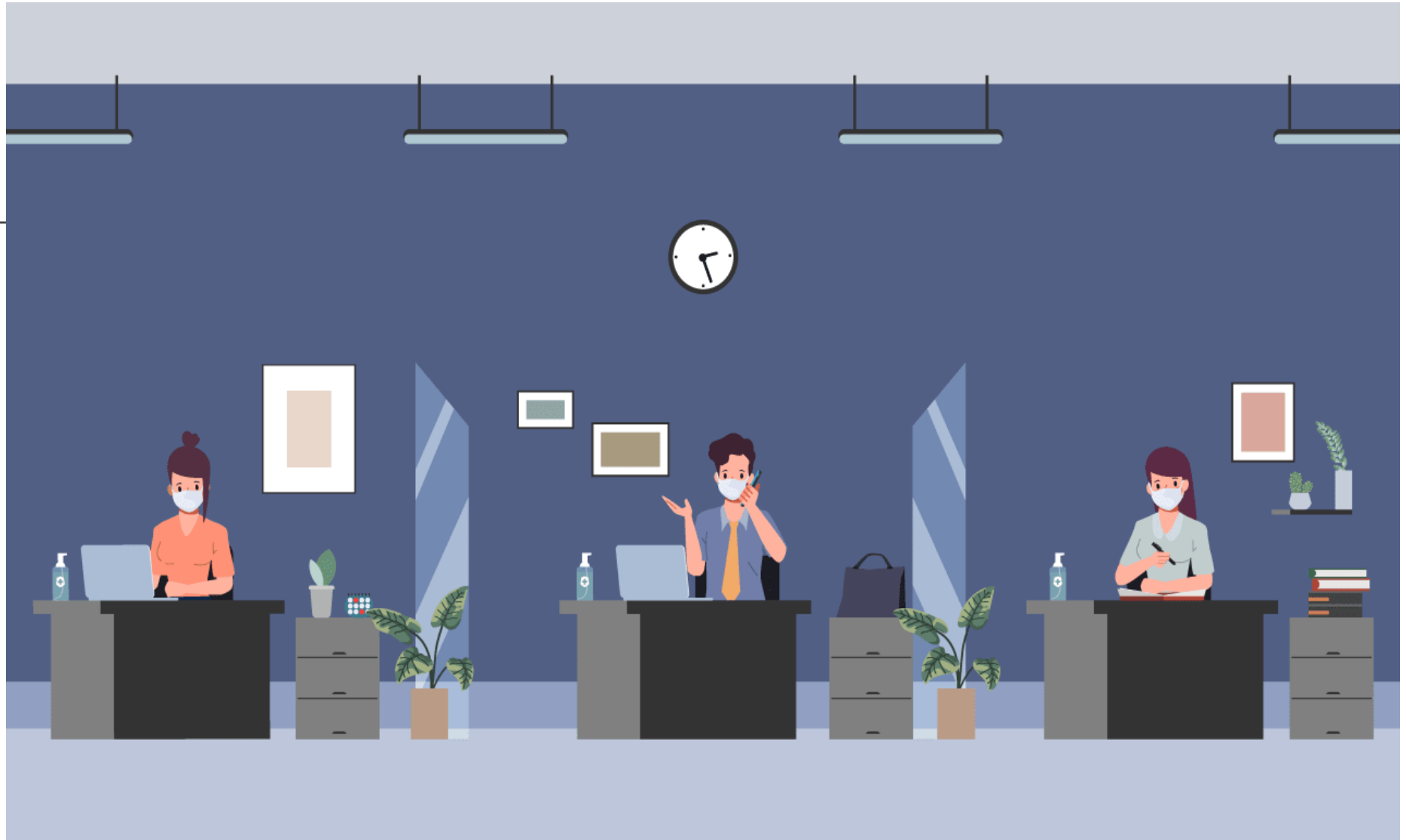
Increases in the Salary Threshold



REDEFINING THE WORKPLACE

2021

- What will your workplace look like?
- Hybrid Model
- Lease considerations





The Philly Wage Tax Issue

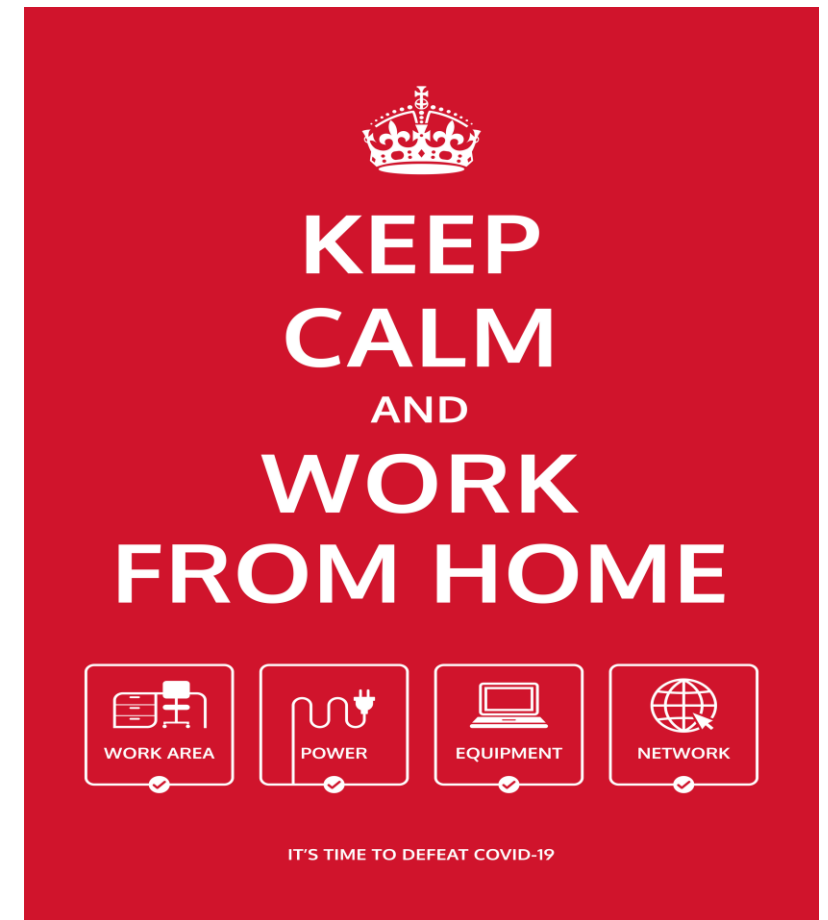
Where do your employees stand?

WHAT SHOULD EMPLOYERS DO?

- Revamp policies to reflect your new way of operating
- Health and Safety Policies
- Reimbursement Policies
- Paid Sick Leave Policies
- Leave Policies
- Vacation Policies
- Disability policies



- ✓ Equipment
- ✓ Reimbursement for Necessary Business Expenses
- ✓ Record Keeping
- ✓ Reporting
- ✓ Meal and Rest Periods
- ✓ Worker's Compensation



Teleworking Policies You Should Address

Return to Work Plan

Consider Employee Mental Health Issues

- ❖ Significant issues for a long time
- ❖ Offer resources
- ❖ Be flexible
- ❖ #MENTALHEALTHMATTERS

Mental Health Issues





Minimize Your Risk

- Re-evaluate your workforce
- Permanent telecommuting
- Employment audits for pay
- Review employee classifications
- Update handbooks
- Look at leases
- Evaluate insurance

First Line of Defense



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QUESTIONS

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